

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID STEBBINS, d.b.a. ACERTHORN

PLAINTIFF

VS.

Case 3:21-cv-04184-JSW

KARL POLANO, d.b.a. SOFIANNP, ALPHABET INC.,
DISCORD INC., FACEBOOK INC.,
JOHN DOE #1, d.b.a. INITIATIVEKOOKIE, and
JOHN DOE #2, d.b.a. TGP482,

DEFENDANTS

RESPONSE TO [045] ORDER TO SHOW CAUSE

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following response to the Court's order (Doc. 45) to show cause why my *in forma pauperis* status should not be revoked.

I am now employed part-time, but not enough to justify withdrawing my In Forma Pauperis status.

1. Since the filing of this case, I have become employed part-time as a dishwasher at the local restaurant known as "Eddie's Steakhouse and Suhi Bar." They have a facebook profile which you can view here:
<https://www.facebook.com/EddiesSteakhouseAndSushiBar/>
2. However, I am not making enough money from this part-time job to justify revoking my in forma pauperis status. I get paid twice a month, and I typically only make an average of \$151 per pay period.
3. But in fact, I typically only get about half that much, because when I earn any income from wages, my Supplemental Security Income is reduced by half that amount. A calculator that can help calculate one's SSI eligibility can be found here:
<https://careersourcebrevard.com/career-services/supporting-services-persons-disabilities/ticket-to-work-program-features/ssi-calculator-wages>
4. So as you can see, this is hardly enough to justify revoking my *in forma pauperis* status. If it helps ease the Court's concerns, I am attaching, as **Exhibit A**, a renewed in forma pauperis application. Please note that this application is being delivered under penalty of perjury:

12	vs.	}	APPLICATION TO PROCEED
13	Karl Polano	}	IN FORMA PAUPERIS
14	Defendant.	}	(Non-prisoner cases only)
15			
16	I, <u>David Stebbins</u> , declare under penalty of perjury that I am the plaintiff		
17	in the above entitled case and that the information I offer throughout this application is true and		

5. As such, just like when it gave Discord Inc. the benefit of the doubt in regards to the TRO Motion¹, I ask the Court to give me a similar benefit of the doubt as to the accuracy of the income and expenses reported therein.

I will not be paying \$794.00.

6. The entire basis for the Court's suspicion is that Process Service Network, LLC (or PSN for short) normally charges \$794.00 for their service. While this is normally the price they ask for, I was able to haggle them down a couple hundred dollars. In actuality, they have agreed to perform the service for a fee of \$636.00. See **Exhibit B**.
7. Now, the court is probably thinking right now "Well, that's still more than the \$402.00 for a civil court filing fee. So you can still pay it." However, that is actually not the case, and the reason for this is because ...

I will not pay this amount all in one go.

8. In order to cover the costs of this Hague service, I am taking out a loan, to be repaid over the course of nine months, with a local payday lender. In exchange for being lent this amount, I will agree to pay \$100 per month for nine months. Now, if you enter this information into an online debt calculator², you can see that this comes out to an interest rate of *over ninety percent!*
9. Yes, the law requires those who have the means to pay a filing fee actually do so. But "having the means" does not mean going into debt. Just because I am *willing* to take out this loan in order to do service of process does not mean the Court has any right to *force* this debt upon me for its own fees. No application for leave to proceed in forma pauperis has ever been denied simply on the grounds that the plaintiff could theoretically borrow the money (let alone at an interest rate of over 90%) to pay the filing fee with, so the Court certainly should not start doing that now.
10. Now, if you review my renewed in forma pauperis application, you will notice that I do not currently mention this loan. That is because I haven't actually borrowed the money yet. The loan offer is on the table, but I haven't actually signed it yet. I am waiting for the Court to rule on my Motion for Leave to File Second Amended Complaint (Doc. 38), as well as make a decision as to whether or not it will revoke my in forma pauperis status, before I commit to hiring PSN to serve process for me. After all, either of those two issues can drastically alter what kind of papers I need to send to PSN, right? So it is obviously prudent to hold off on hiring PSN at the moment. And if I'm not going to pay PSN, it makes no sense for me to borrow money, and accrue interest on that loan, for a service I'm not even paying for yet. So the quicker the Court can do those two things, the quicker I can get around to serving process on Polano.

1 See Doc. 44, Page 3, Lines 12-13 ("based on the attestations of truthfulness made under the penalty of perjury in the DiMuzio declaration, the Court finds no reason to doubt the truth of Discord's statements")

2 Such as this one: <https://www.arvest.com/calculators/what-my-loan-rate>

11. But even when I do take out that loan, that should hardly be enough to adversely affect my IFP eligibility. If anything, it should do the opposite, because if anything,

Conclusion

12. In conclusion, I am able to pay PSN's fee to serve process on Polano through a combination of negotiated reduced payments, borrowing the money and repaying it over $\frac{3}{4}$ of a year, and the pennance I am now earning through my part-time job. As I mentioned in my Motion for Hague Service, the arrangement I have worked out will be "painful, but just barely affordable." The key word, here, is "barely." I should not have my *in forma pauperis* status revoked just because I have managed a convoluted work-around to enable me to pay a fee that appears at first glance to be greater than the filing fee itself, not unless the law *requires* plaintiffs (the key word being "require") to engage in that same convoluted work-around (e.g. borrowing money at exorbitant interest rates). If the law started requiring that of Plaintiffs, *in forma pauperis* eligibility would be an extremely rare occurrence.
13. Wherefore, premises considered, I respectfully request that my *in forma pauperis* status not be revoked.

So requested on this, the 15th day of September, 2021.

/s/ David Stebbins
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